

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RORY M. WALSH, individually and as Natural Guardian of C.R.W.,	:	CIVIL ACTION NO. 1:07-CV-0616
	:	
	:	(Judge Conner)
Plaintiff	:	
v.	:	
	:	
DR. ROBERT KRANTZ, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 5th day of August, 2008, upon consideration of *pro se* plaintiff's motion (Doc. 67) for partial summary judgment on his Fourth Amendment claim against defendant Dr. Robert Krantz for alleged eavesdropping on a telephone conversation, and it appearing that plaintiff seeks summary judgment on this claim, in part, because of the erroneous assertion that defendants failed to challenge this claim (see Doc. 67 at 1; Doc. 68 at 3-4; Doc. 69 ¶ 15),¹ and that discovery on this claim has not concluded (see Doc. 46 (setting a discovery deadline of September 16, 2008 and a dispositive motion deadline of September 30, 2008); see also Doc. 53 (staying discovery on all claims except claims relating to the alleged eavesdropping on a telephone conversation between plaintiff and his son)), it is

¹ Plaintiff asserts that defendants failed to challenge this claim because they did not address it in their motion to dismiss (Doc. 61). (See Doc. 67 at 1; Doc. 68 at 4; Doc. 69 ¶ 15.) A failure to challenge a claim within a motion to dismiss does *not* represent a failure to challenge a claim. Indeed, along with their motion to dismiss, defendants filed an answer to the amended complaint, specifically denying all allegations related to the Fourth Amendment claim against Krantz. (See Doc. 62 at 6 ¶¶ 14-17.)

hereby ORDERED that the instant motion (Doc. 67) is DENIED without prejudice to plaintiff's right to file a motion for summary judgment in accordance with the pretrial schedule.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge